

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:19-cr-0241-JRS-MJD
)	
BRADLEY HARDY,)	- 01
)	
Defendant.)	

REPORT AND RECOMMENDATION

On November 15, 2021, the Court held a hearing on the Petition for Warrant or Summons for Offender Under Supervision filed on October 7, 2021. Defendant Hardy appeared in person with his appointed counsel Michael Donahoe. The government appeared by Kyle Sawa, Assistant United States Attorney. U. S. Parole and Probation appeared by Officer Mark McCleese.

The Court conducted the following procedures in accordance with Fed. R. Crim. P. 32.1(a)(1) and 18 U.S.C. § 3583:

1. The Court advised Defendant Hardy of his rights and provided him with a copy of the petition. Defendant Hardy orally waived his right to a preliminary hearing.
2. After being placed under oath, Defendant admitted violation numbers 1, 2, 3, 4, and 5. [Docket No. .]
3. The allegations to which Defendant admitted, as fully set forth in the petition, are:

**Violation
Number**

Nature of Noncompliance

- 1 **“You shall report to the probation officer in a manner and frequency directed by the court or probation officer.”**

On September 2, 2021, during a telephone conversation, Mr. Hardy was instructed to report to the probation office that date. He stated he could not report, citing transportation issues. He reported the next day. On September 14, 2021, an appointment notice was left at Mr. Hardy's last known address, instructing him to report to the United States Probation Office on September 15, 2021. Mr. Hardy failed to report as instructed.

- 2 **“You shall reside at a location approved by the probation officer and shall notify the probation officer at least 72 hours prior to any planned change in place or circumstances of residence or employment (including, but not limited to, changes in who lives there, job positions, job responsibilities). When prior notification is not possible, you shall notify the probation officer within 72 hours of the change.”**

On July 5, 2021, Mr. Hardy moved to 257 North Shortridge Road, Apartment J1, and on July 9, 2021, this officer conducted a home inspection and met with the offender at that location. On August 12, 2021, this officer attempted to contact the offender at that location and was told he no longer lived there. Subsequently, Mr. Hardy called this officer and stated he moved to another apartment formerly occupied by his daughter at 253 North Shortridge Road, Apartment I-8. An unsuccessful attempt was made by the probation officer to locate him there. The offender failed to respond to an appointment notice left at the address, and his whereabouts are unknown.

- 3 **“You shall not use or possess any controlled substances prohibited by applicable state or federal law, unless authorized to do so by a valid prescription from a licensed medical practitioner. You shall follow the prescription instructions regarding frequency and dosage.”**

As previously reported to the Court, on June 3, 2021, Mr. Hardy submitted a urine specimen which tested positive for cocaine. Additionally, on September 3, 2021, he submitted a urine specimen which tested positive for cocaine. Prior to each urine screen, he admitted to consuming cocaine.

- 4 **“You shall submit to substance abuse testing to determine if you have used a prohibited substance or to determine compliance with substance abuse treatment. Testing may include no more than 8 drug tests per**

month. You shall not attempt to obstruct or tamper with the testing methods.”

Mr. Hardy failed to report for drug testing on July 8, July 19, August 18, August 25, September 15, and September 22, 2021.

- 5 **“You shall participate in a substance abuse or alcohol treatment program approved by the probation officer and abide by the rules and regulations of that program. The probation officer and abide by the rules and regulations of that program. The probation officer shall supervise your participation in the program (probider, location, modality, duration, intensity, etc.). The court authorizes that release of the presentence report and available evaluations to the treatment provider, as approved by the probation officer.”**

Due to illegal drug use, Mr. Hardy was referred to substance abuse treatment and was scheduled for bi-weekly services. The offender has not participated in any treatment since July 28, 2021.

4. The parties stipulated that:
- (a) The highest grade of violation is a Grade B violation.
 - (b) Defendant’s criminal history category is II.
 - (c) The range of imprisonment applicable upon revocation of supervised release, therefore, is 6 to 12 months’ imprisonment.

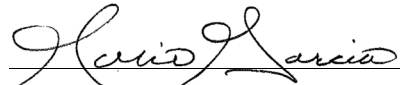
5. The parties jointly recommended a sentence above the guideline range of twelve (12) months and one (1) day with no supervised release to follow. The parties requested above the guideline range to give the defendant incentive to earn credit time. Defendant requested placement at FMC Lexington.

The Magistrate Judge, having considered the factors in 18 U.S.C. § 3553(a), and as more fully set forth on the record, finds that the Defendant violated the conditions in the petition, that his supervised release should be revoked, and that he should be sentenced to the custody of the Attorney General or his designee for a period of twelve (12) months and one (1) day with no supervised release to follow. The Magistrate Judge will recommend placement at FMC

Lexington. The Defendant is to be taken into custody immediately pending the District Judge's action on this Report and Recommendation.

The parties are hereby notified that the District Judge may reconsider any matter assigned to a Magistrate Judge. The parties waived the fourteen-day period to object to the Report and Recommendation.

Date: 11/15/2021


Mario Garcia
United States Magistrate Judge
Southern District of Indiana

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